Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
AT&T	)	IC No. 13-S3641249
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

ORDER

Adopt: October 30, 2014 **Released: October 31, 2014**

By the Deputy Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaint[1] alleging that AT&T changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant in violation of the Commission's rules.[2] We conclude that AT&T has taken action to resolve the complaint.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).[3] Section 258 prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of

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1 Informal Complaint No. IC 13-S3641249, filed April 9, 2013.

2 *See* 47 C.F.R. §§ 64.1100 – 64.1190.

3 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order), stayed in part, AT&T WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted, AT&T WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); Third Order on Reconsideration and Second Further Notice of Proposed Rule Making, 18 FCC Rcd 5099 (2003); Order, 18 FCC Rcd 10997 (2003); Fourth Report and Order, 23 FCC Rcd 493 (2008). Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. *See*, *e.g.*, *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carrier*s, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

a provider of telephone exchange service or telephone toll service.[4] In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.[5] Pursuant to Section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures.[6] Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.[7]

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.[8] Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.[9] Carriers should note that our actions in this order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.[10]

4. We received Complainant's complaint on April 9, 2013, alleging that Complainant's telecommunications service provider had been changed to AT&T without Complainant's authorization. Pursuant to Sections 1.719 and 64.1150 of our rules,[11] we notified

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4 47 U.S.C. § 258(a).

5 *See* 47 C.F.R. § 64.1120.

6 47 U.S.C. § 258(a).

7 *See* 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

8 *See* 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

9 *See* 47 C.F.R. §§ 64.1140, 64.1170.

10 *See* 47 U.S.C. § 503.

11 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

AT&T of the complaint and AT&T responded on May 9, 2013.[12] AT&T states that it received requests to become the intraLATA (local toll) and interLATA (long distance) provider on November 16, 2012, from Complainant's local exchange carrier (LEC), Verizon. Pursuant to Sections 1.719 and 64.1150 of our rules,[13] we notified Verizon of the complaint and Verizon responded on January 16, 2014.[14] Verizon states that Complainant established local and long distance service with it on January 27, 2010, and that on February 14, 2012, Verizon received an electronic order from AT&T, requesting Complainant's intraLATA and interLATA long distance. Verizon processed the request and confirmed the completed request to AT&T. Verizon further states that it received an electronic request on September 9, 2012 and September 24, 2012, from AT&T requesting long distance Automatic Number Identification (ANI) on Complainant's telephone numbers and Verizon notified AT&T the customer's long distance services were already assigned to AT&T for all three lines. Based on Verizon's response, we requested further information; from AT&T, and AT&T responded on August 15, 2014.[15] AT&T states that after further investigation, Complainant's intraLATA and interLATA services were changed to AT&T as the result of an internet-based request on January 11, 2012, from an AT&T retail customer to add several billing telephone numbers to its account and change them to AT&T. On August 13, 2012, AT&T records show the lines were removed from the retail customer's account, the lines inadvertently remained with AT&T and the usage defaulted to its default biller. AT&T has fully absolved the Complainant of all charges assess by AT&T. Based on the information before us, we therefore find that the complaint referenced herein has been resolved.[16]

5. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaint filed against AT&T, IS RESOLVED.

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[12] AT&T's Response to Informal Complaint No. IC 13-S3641249, received May 9, 2013.

[13] 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

[14] Verizon's Response to Informal Complaint No. IC 13-S3641249, received January 16, 2014.

[15] AT&T's Response to the request for further information regarding Informal Complaint IC 13-S3641249, received August 15, 2014.

[16] If Complainant is unsatisfied with the resolution of this complaint, Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. *See* 47 C.F.R. § 1.719.

6. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau